

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

MICHAEL CARMIE ANTONELLI

PETITIONER

vs.

Civil Case No. 2:05CV00207 HLJ

LINDA SANDERS, Warden,
FCI, Forrest City, Arkansas

RESPONDENT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge William R. Wilson, Jr. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing

for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite 402
Little Rock, AR 72201-3325

DISPOSITION

Now before the court are Petitioner's Motion for Protective Order (DE #31), Motion for Relief from Order (DE # 32) and Motion to Consolidate with Case 2:06cv00061 (DE # 33). In the petition in this case, Petitioner challenged the Bureau of Prison's decision not to transfer him to a community correctional center (CCC) prior to his release from custody. This court submitted Proposed Findings

and Recommendations on February 22, 2006, denying the petition. The District Court adopted the recommendations and entered Judgment for the Respondent on March 10, 2006.

In his post-judgment motions, Petitioner asserts he has been retaliated against for exercising his right to petition the court, denied access to his mail and writing paper, placed in the "hole" for no reason and threatened with physical harm. He also asks this court to consolidate this case with case No. 2:06cv00061, because he "alleges the same expulsion from the RDAP for retaliatory motives."

The matters alleged in Petitioner's motions do not change the court's conclusion that Petitioner has not completed the RDAP program and, thus, is not entitled to be considered for transfer to a CCC at this time. There is no need to consolidate this case with case No. 2:06cv00061. This case was closed on March 10, 2006. Petitioner may pursue his retaliation allegations in a separate action. Petitioner's Motion for Protective Order (DE #31), Motion for Relief from Order (DE # 32) and Motion to Consolidate this case with Case 2:06cv00061 (DE # 33) are hereby denied.

SO ORDERED this 23rd day of June, 2006.


United States Magistrate Judge